

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
IDS/Jones Joint Venture Partners	)	File No. EB-02-TC-013
d/b/a Jones Intercable	)	CUID No. IL0094 (Aurora)
)	
Jones Cable Income Fund 1-B/C Venture	)	File Nos. EB-02-TC-042
d/b/a Jones Intercable	)	EB-02-TC-043
	)	CUID Nos. MI0204 (Dowagiac)
	)	MI0243 (Watervliet)
)	
Cable TV Fund 12-BCD Venture	)	File Nos. EB-02-TC-044
d/b/a Jones Intercable	)	EB-02-TC-045
	)	CUID Nos. CA0342 (Palmdale)
Consolidated Application for Review	)	CA0343 (Quartz Hill)

ORDER

Adopted: July 16, 2002

Released: July 17, 2002

By the Chief, Enforcement Bureau:¹

1. In this Order we reconsider on our own motion three Cable Services Bureau Orders, DA 95-1570,² DA 95-1590,³ and DA 95-1591⁴ (together "Prior Orders"), that resolved complaints filed against the rates charged by the above-referenced operators ("together "Operator")⁵ for the cable programming services tier ("CPST") in the communities referenced above through May 14, 1994. In the Prior Orders, the Cable Services Bureau stated that its findings "do not in any way prejudice the reasonableness of the price for CPS service after May 14, 1994 under our new rate regulations."⁶ Subsequently, the Cable Services Bureau issued orders resolving complaints against Operator's CPST

¹ Effective March 25, 2002, the Commission transferred responsibility for resolving cable programming services tier rate complaints from the former Cable Services Bureau to the Enforcement Bureau. *See Establishment of the Media Bureau, the Wireline Competition Bureau and the Consumer and Governmental Affairs Bureau, Reorganization of the International Bureau and Other Organizational Changes*, FCC 02-10, 17 FCC Rcd 4672 (2002).

² *In the Matter of Jones Intercable, Inc.*, DA 95-1570, 10 FCC Rcd 8751 (CSB 1995).

³ *In the Matter of Jones Intercable, Inc.*, DA 95-1590, 10 FCC Rcd 8753 (CSB 1995).

⁴ *In the Matter of Jones Intercable, Inc.*, DA 95-1591, 10 FCC Rcd 8811 (CSB 1995).

⁵ The term "Operator" includes Operators' predecessors and successors in interest.

⁶ Prior Orders at n. 1.

rates beginning May 15, 1994, and found those rates to be reasonable in all of the communities.⁷ In this Order, we reconsider, on our own motion, and amend the Prior Orders, and dismiss Operator's Application for Review as moot.

2. Under the provisions of the Communications Act⁸ that were in effect at the time the complaints were filed, the Commission is authorized to review the CPST rates of cable systems not subject to effective competition to ensure that rates charged are not unreasonable. The Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act")⁹ and the Commission's rules required the Commission to review CPST rates upon the filing of a valid complaint by a subscriber or local franchising authority ("LFA"). The Telecommunications Act of 1996 ("1996 Act"),¹⁰ and the Commission's rules implementing the legislation ("Interim Rules"),¹¹ required that a complaint against the CPST rate be filed with the Commission by an LFA that has received more than one subscriber complaint. The filing of a valid complaint triggers an obligation upon the cable operator to file a justification of its CPST rates.¹² If the Commission finds the rate to be unreasonable, it shall determine the correct rate and any refund liability.¹³

3. During the first phase of rate regulation, from September 1, 1993 until May 15, 1994, the benchmark rate analysis and comparison with an operator's actual rates were calculated using the FCC Form 393.¹⁴ Operator points out that a clerical mistake was made on the FCC Form 393s it submitted to the Cable Services Bureau, which the Bureau relied on to calculate Operator's maximum permitted rates ("MPRs") in the Prior Orders. This clerical error resulted in a reduction in both Operator's calculated FCC Form 393 MPR and the MPR established in the Prior Orders. Operator argues that the legal entities that owned the cable systems in issue are limited partnerships and not subject to federal and state corporate income taxes and that Operator incorrectly made entries on its submitted FCC Form 393s that indicated that Operator was a tax-paying corporation. Upon review of Operator's submitted FCC Form 393s and the Cable Services Bureau's revised FCC Form 393s, we agree with Operator regarding this issue.

4. We adjusted Operator's FCC Form 393s to reflect Operator's partnership status. Upon review of the adjusted FCC Form 393s, we find that Operator's total overcharges for the period under review are *de minimis* and it would not be in the public interest to order a refund. We modify the Prior

⁷ See *In the Matter of Jones Intercable, Inc.*, DA 99-1575, 14 FCC Rcd 13262 (CSB 1999) (CUID No. IL0094); *In the Matter of Jones Intercable, Inc.*, DA 99-1697, 14 FCC Rcd 13880 (CSB 1999) (CUID No. MI0204); *In the Matter of Jones Intercable, Inc.*, DA 99-1703, 14 FCC Rcd 13884 (CSB 1999) (CUID No. MI0243); *In the Matter of Comcast Cable Communications, Inc.*, DA 99-1576, 14 FCC Rcd 13265 (CSB 1999) (CUID Nos. CA0342 and CA0343).

⁸ 47 U.S.C. §543(c) (1996).

⁹ Pub. L. No. 102-385, 106 Stat. 1460 (1992).

¹⁰ Pub. L. No. 104-104, 110 Stat. 56 (1996).

¹¹ See *Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 5937 (1996).

¹² See Section 76.956 of the Commission's rules, 47 C.F.R. §76.956.

¹³ See Section 76.957 of the Commission's rules, 47 C.F.R. §76.957.

¹⁴ See *Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation*, 8 FCC Rcd 5631, 5755-56, 5766-67, 5881-83 (1993).

Orders accordingly. Because our resolution of this issue disposes of Operator's refund liability, we dismiss Operator's Application for Review, which has become moot.¹⁵

5. Accordingly, IT IS ORDERED, pursuant to Sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111 and 0.311, that *In the Matter of Jones Intercable, Inc.*, DA 95-1570, 10 FCC Rcd 8751 (CSB 1995), *In the Matter of Jones Intercable, Inc.*, DA 95-1590, 10 FCC Rcd 8753 (CSB 1995), and *In the Matter of Jones Intercable, Inc.*, DA 95-1591, 10 FCC Rcd 8811 (CSB 1995) ARE MODIFIED TO THE EXTENT INDICATED HEREIN.

6. IT IS FURTHER ORDERED, pursuant to Sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111 and 0.311, that the stay of Orders, DA 95-1570, DA 95-1590 and DA 95-1591, granted in *Petitions for Stay*, DA 96-425, 11 FCC Rcd 4196 (1996), IS VACATED.

7. IT IS FURTHER ORDERED, pursuant to Sections 0.111, 0.311 and 1.115 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311 and 1.115, that Operator's consolidated application for review IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

¹⁵ See, e.g., *In the Matter of Jones Intercable, Inc.*, DA 02-538, 17 FCC Rcd 4358 (CSB 2002) (If resolution of an operator's application for review will have no effect on the operator's refund liability, the application for review will be dismissed as moot).